

0 4 JUN 2007



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

MYERS BIGEL SIBLEY & SAJOVEC, P.A.  
P.O. Box 37428  
Raleigh, NC 27627

In re Application of  
CLARK *et al*  
Application No.: 10/572,975  
PCT No.: PCT/GB2004/004054  
Int. Filing Date: 23 September 2004  
Priority Date: 23 September 2003  
Attorney Docket No.: 9052-241  
For: EXECRETABLE REPORTER  
SYSTEMS

**DECISION**

This is a decision on the papers filed on 10 May 2007 and via facsimile on 01 June 2007 which are treated under 37 CFR 1.181 and 37 CFR 1.42.

**BACKGROUND**

On 25 April 2007, a decision dismissing applicant's petition under 37 CFR 1.42 was mailed. Applicants were given two months to respond with extensions of time available under 37 CFR 1.136(a).

On 10 May 2007, applicants filed several papers including a 7-page declaration and a 3-page Application Data Sheet (ADS).

On 01 June 2007, applicant submitted copies of the papers filed 10 May 2007 and a postcard receipt for those documents.

**DISCUSSION**

Applicants claim that a response to the decision on petition under 37 CFR 1.42 was mailed with the papers on 10 May 2007. This paper was not located in the file. Moreover, applicants claim that the ADS was five pages long. The ADS in the file is only three pages long.

**Petition Under 37 CFR 1.181**

Section 503 of the MPEP lists procedures for applicants to ensure receipt of any papers filed in the Office. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office.

**10/572,975**

Applicants have provided a copy of their date-stamped postcard receipt for the papers submitted 10 May 2007. The receipt clearly identifies the application, attorney docket number, and title. The receipt acknowledges the following documents were received: a Response to Decision on Petition; Declaration (7 pages); and ADS (5 pages). The postcard receipt is stamped by the USPTO as received on 10 May 2007.

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

Applicants have provided *prima facie* evidence that the ADS was five pages and a response to decision was included with the papers filed on 10 May 2007.

### **Petition Under 37 CFR 1.42**

In the decision mailed 25 April 2007, the declaration filed in the international application pursuant to PCT Rule 4.17(iv) was deemed not acceptable because it was unclear in what capacity Ms. Clark signed the declaration for a deceased inventor. Moreover, the declaration failed to provide any information on the deceased inventor.

In the declaration submitted 10 May 2007, Ms. Clark is listed as the legal representative of Anthony John Clark. The information required by 37 CFR 1.497(b)(2) for Ms. Clark is listed on the declaration. Moreover, the ADS records the required information for the deceased inventor.

### **CONCLUSION**

The renewed papers filed under 37 CFR 1.42 are **ACCEPTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 23 September 2004, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 10 May 2007.

This application is being forwarded to the United States Designated/Elected Office for further processing in accordance with this decision



James Thomson  
Attorney Advisor  
Office of PCT Legal Administration

Tel.: (571) 272-3302